

HOUSE BILL REPORT

HB 1477

As Reported by House Committee On:
Judiciary

Title: An act relating to homeowners' associations.

Brief Description: Changing regulations for homeowners' associations.

Sponsors: Representatives Kagi and Chase.

Brief History:

Committee Activity:

Judiciary: 2/8/05, 3/1/05 [DPS].

Brief Summary of Substitute Bill

- Establishes a committee to review the Homeowners' Association Act (Act) and recommend whether or not changes should be made to the Act.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Lantz, Chair; Williams, Vice Chair; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Campbell, Kirby, Serben, Springer and Wood.

Staff: Edie Adams (786-7180).

Background:

A homeowners' association is an organization consisting of the homeowners and property owners within a residential development. Often homeowners' associations are formed by the land developer or the builder of planned unit developments pursuant to a restrictive covenant or a contract. Homeowners' associations can be organized in different ways, including incorporated under the Business Corporation Act or the Nonprofit Corporation Act, or as an unincorporated association.

The primary functions of homeowner's associations include: imposing and collecting assessments on property owners; managing and maintaining common areas, such as parks, lakes, roads, and community centers for the benefit of the community; and enforcing restrictive covenants that govern the community. In addition, homeowners' associations may adopt rules and regulations concerning property use in the community and impose fines for violations of those rules. They derive authority to carry out these functions from several

documents, including the declaration of covenants, conditions, and restrictions (CC&R's), the association's bylaws and articles of incorporation, and the deeds to the property within a development.

In 1995, the Legislature passed the Homeowners' Association Act (Act). The Act regulates the operation of homeowners' associations in a number of ways, including requirements with respect to duties of the board of directors, association bylaws, adoption of the association budget, and association meeting and quorum requirements.

Summary of Substitute Bill:

The Homeowners' Association Act Committee (Committee) is established. The purpose of the Committee is to review the Homeowners' Association Act, the Uniform Common Ownership Interest Act, and current issues concerning homeowners' associations, and to consider whether any changes should be made to the Act.

The Committee consists of the following ten members:

- four legislators, two from the Senate and two from the House of Representatives;
- a representative of the Community Association Institute;
- a representative of the Washington Homeowners' Coalition;
- a representative of the residential development industry;
- a lawyer experienced in representing associations;
- a lawyer experienced in representing homeowners; and
- a person with expertise in homeowners' association law, who shall be the chair of the Committee.

The Governor appoints the non-legislative members of the Committee. The Committee must deliver a report of its finding and any proposed implementing legislation to the Legislature by December 31, 2005.

Substitute Bill Compared to Original Bill:

The original bill made a number of changes to the Homeowners' Association Act relating to the election and removal of members of the board of directors, the process for budget ratification, the calling of special meetings, restricting the use of electronic communications to take official board action, quorum requirements, and application of the Act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: There are many homeowners who are quite frustrated in trying to deal with the directors of their associations. The Act does not have adequate remedies when a board violates the law. This bill will give homeowners more control, particularly when the board of directors is out of control.

There is ambiguity about whether the Act controls over other corporation statutes, and the board likes to pick and choose between the statutes depending on what suits their needs. This needs clarification. Special meetings are called when the homeowners are dissatisfied with the board, so the homeowners should be able to set the meeting, propose the agenda, and select a chair to run the meeting. The biggest problem in associations relates to the budget. Homeowners should be given an effective say in whether or not the budget is passed. The current law makes it impossible for homeowners to reject a board budget. Board members should not be conducting official business through e-mail.

(With concerns) We support the efforts of the proponents and the need to take a look at some of these issues. There is concern with the e-mail provision. Boards will be hampered if they are not able to conduct the day-to-day routine business of the association by phone or e-mail.

Testimony Against: The Act was adopted in response to the first wave of concerns relating to homeowners' associations. The Act created a basic structure of checks and balances between the board and members. There are systematic options available to help homeowners work through problems with the board, but frequently those options aren't used. The budget ratification process in the Act is a protection for the owners. The proposed language would create a loophole that could take away owner's rights. Sometimes the buck has to stop with the board. It is just too easy for members to vote to not tax themselves. Cumulative voting is a choice that is currently available to be exercised by members. This bill will take that choice away. There are problems with the Act, but you shouldn't respond with bandaids that create unintended consequences. Take the time to look for a good solution.

Persons Testifying: (In support) Representative Kagi, prime sponsor; Nancy Rust, Wayne Cottingham, Elaine Phelps, and Paul Blauert, Innis Arden; Larry Stout, Realtors; John Libner, Lake of the Woods Community Club; Madge Shotwell, Lake Limerick; and Keith McGregor, Lakeland Village Community Club.

(With concerns) Sandi Swarthout, Washington Homeowners' Coalition.

(Opposed) Robert Wilson-Hass; and Terrence Leahy, Washington State Chapter of Community Associations Institute.

Persons Signed In To Testify But Not Testifying: None.